

**From:** Blain Hamon  
**To:** Microsoft ATR  
**Date:** 1/7/02 11:30pm  
**Subject:** Microsoft Settlement.

There seems to be a lack of listed courses of action to take if and when the defendant fails to meet the criteria of the final judgement. I do not have any law training, and as such do not know if such a provision is possible. However, I write this with Microsoft's previous actions in mind.

- \* This settlement is because Microsoft broke a previous antitrust agreement.
- \* During the 5 years of this battle, MS has continued with its practices.
- \* In the court, Microsoft was caught committing perjury a full three times.
- \* Microsoft has been lobbying to lower the DOJ's funding in order to reduce its effectiveness.
- \* Microsoft delayed, agreeing to a settlement only when a full ultimatum was issued and failure was outlined.

Microsoft has continued to do acts which can be construed as attempts to monopolize a high-competition market, such as Windows XP's built-in advertising of MSN (In order to take over the ISP market) and Windows Media Player disabling high-quality playback of MP3s, for no other reason than to push Microsoft's own sound file standard. And I fear Microsoft will not comply to the agreement unless a sword of Damocles is fully hanging overhead. They have the funds and the lawyers to continue to break agreements, delaying in court the actions to be taken as punishment, and finally sign a new agreement where the cycle continues.

I feel there needs to be a provision that spells out the possible punitive actions that the TC can and will do if Microsoft refuses to comply, including drastic measures such as the proposed alternatives, even such things as restricting Microsoft's assets, or confiscating payments to Microsoft, in the same way the IRS is entitled to garnish wages of those who fail to pay taxes.

It appears that also missing in this agreement is any form of public interaction over the long term. I do not see any course a citizen of the United States, can 1) alert the TC of practices that I feel should be looked at as possible violations, and 2) obtain reports, records, or any other documents the TC creates in order to aid making an informed opinion and alerting others to possible concerns.

This information is of public interest, and it is mentioned, "Plaintiffs may use information obtained from the TC as the basis for commencing a compliance inquiry or investigation," (Competitive impact statement, IV B 2 b) I feel that future plaintiffs wanting to commence an inquiry should also be given

access to this information. In short, as much nonsensitive documents as possible should be public information, under the rules of the Freedom of Information Act.

It is because of these reasons that I would like to see amendments added that grant the TC powers of enforcement as well as to give the general public an ability to aid in ensuring that Microsoft does not break its settlements again.

Thank you.